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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/979,521	11/19/2001	Alan F. Savicki	492.166	6386
27023	7590	07/28/2004	EXAMINER	
THE GLAD PRODUCTS COMPANY 1221 BROADWAY #2344 OAKLAND, CA 94623-1305			BRITTAIN, JAMES R	
			ART UNIT	PAPER NUMBER
			3677	
DATE MAILED: 07/28/2004				

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/979,521

Applicant(s)

SAVICKI, ALAN F.

Examiner

James R. Brittain

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 17 May 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,2,6-10,14-16,20-25,29-33,37-39,43,44,48-71 and 76-83 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1,2,6-10,14-16,20-23,43,44,48-71 and 76-83 is/are allowed.
- 6) ☒ Claim(s) 24,25,29-33 and 37-39 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: _____

DETAILED ACTION

Allowable Subject Matter

The indicated allowability of claims 24, 25, 29-33 and 37-39 is withdrawn in view of a reevaluation of the claims in view of Cappel et al. (US 5896627). The inconvenience to applicant is regretted.

Claims 1, 2, 6-10, 14-16, 20-23, 43, 44, 48-71 and 76-83 are allowed.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. §102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 24, 29-33 and 37-39 are rejected under 35 U.S.C. §102(e) as being clearly anticipated by Cappel et al. (US 5896627).

Cappel et al. (figures 4, 7) teaches slider structure adapted to be slidably disposed on a first and second fastening strip the slider facilitating the occlusion of the fastening strips when moved towards the first end thereof and facilitating the deocclusion of the fastening strips when moved towards the second end thereof, the slider comprising: a longitudinal X axis and a transverse Y axis, the transverse Y axis being perpendicular to the longitudinal X axis, the slider having a vertical Z axis, the vertical Z axis being perpendicular to the longitudinal X axis, the vertical Z axis being perpendicular to the transverse Y axis; a housing having protrusions 62A, 64A for deflecting the fastener strips when the slider is moved to the first end of the fastening

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strips; wherein the fastening strips have a first position and a second position when the slider is move away from the first position, wherein the first position is deflected from the second position; and wherein the housing has voids 64B, 62B opposite the respective protrusions 62A, 64A to allow the fastening strips to deflect. The claims are considered drawn to one element, the slider and not three elements, the slider and two fastening strips. The claims do not recite the fastening strips with the detents in combination, but only a capability of the slider to cooperate with fastening strips of such structure and while the device of Cappel et al. does not have fastening strips of such structure, the slider itself has the needed structure to meet the claim language and is capable of functioning with fastening strips with appropriately shaped detents creating an even thinner section at the ends of the fastening strips than that shown by Cappel et al. Applicant has clearly endeavored to use claim construction to only claim the slider and Cappel et al. fully meets the language of the slider claim. As to claims 29 and 30, the shoulders and formation of the slider have portions on each side of the void that perform the function of the occluding the fastenings strips when the slider is moved in the closing direction and meets the language of the claims. As to claim 31-33, these claims are simply viewed as indicating the structure of the fastening strips with which the slider is capable of performing and the slider of Cappel et al. is capable of performing with fastening strips having such structure. The language of claims 31-33 is not viewed as reciting the fastening strips as elements of the claims. In regard to claims 37-39, the slider possesses shoulders 58, 60 extending the claimed directions.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. §103(a) which forms the basis for all obviousness rejections set forth in this Office action:

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(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 25 is rejected under 35 U.S.C. §103(a) as being unpatentable over Cappel et al. (US 5896627).

Cappel et al. (figures 4, 7) teaches slider structure adapted to be slidably disposed on a first and second fastening strip the slider facilitating the occlusion of the fastening strips when moved towards the first end thereof and facilitating the deocclusion of the fastening strips when moved towards the second end thereof, the slider comprising: a longitudinal X axis and a transverse Y axis, the transverse Y axis being perpendicular to the longitudinal X axis, the slider having a vertical Z axis, the vertical Z axis being perpendicular to the longitudinal X axis, the vertical Z axis being perpendicular to the transverse Y axis; a housing having protrusions 62A, 64A for deflecting the fastener strips when the slider is moved to the first end of the fastening strips; wherein the fastening strips have a first position and a second position when the slider is move away from the first position, wherein the first position is deflected from the second position; and wherein the housing has voids 64B, 62B opposite the respective protrusions 62A, 64A to allow the fastening strips to deflect. The claim is considered drawn to one element, the slider and not three elements, the slider and two fastening strips. The claim does not recite the fastening strips with the detents in combination, but only a capability of the slider to cooperate with fastening strips of such structure and while the device of Cappel et al. does not have fastening strips of such structure, the slider itself has the needed structure to meet the claim language and is capable of functioning with fastening strips with appropriately shaped detents creating an even thinner section at the ends of the fastening strips than that shown by Cappel et

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al. Applicant has clearly endeavored to use claim construction to only claim the slider. The difference is that the protrusions 62A, 64A are not each a "peg". However, provision of a peg is the equivalent of the smooth protrusion of Cappel et al. and the use of peg with a rounded end would perform the same deflecting function of the fastening strips as the protrusions of Cappel et al. without any benefit derived therefrom.

Applicant has made a point to provide claims 1, 2, 6-10 and 14-16 which correspond to claims 24, 25, 29-33 and 37-39 except for the claim construction be drawn to three elements, the slider and two fastening strips rather than one element, the slider. Since applicant is clearly making an effort to claim the slider alone in claims 24, 25, 29-33 and 37-39, the application of the teachings of Cappel et al. as indicated above is fully appropriate. Otherwise, the scope of claims 1, 2, 6-10 and 14-16 would be identical to 24, 25, 29-33 and 37-39 and would raise the issue of double patenting.

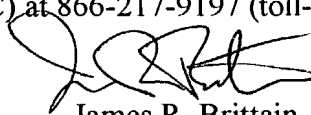
Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to James R. Brittain whose telephone number is 703-308-2222. The examiner can normally be reached on M, W & F 5:30-1:30, T 5:30-2:00 & TH 5:30-4:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, J. J. Swann can be reached on 703-306-4115. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



James R. Brittain
Primary Examiner
Art Unit 3677

JRB